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SPECIAL CIVIL COURT PROCEDURE (436) No. 5009763-53.2025.4.03.6301
AUTHOR: NELSON ANGELO PIQUET
ATTORNEY for the PLAINTIFF: JULIANA CRISTINA DE GODOY ARRIAGADA - SP375491 ATTORNEY for the PLAINTIFF
AUTHOR: THIAGO MATOS XAVIER - SP346389
Defendant: Federal Union - National Treasury

TYPE A SENTENCE

Seen.

This is a lawsuit filed by NELSON ANGELO PIQUET against the Union, seeking to compel the defendant to pay compensation for material damages in the amount of R$ 4,830.35.

The plaintiff states that they traveled to the United States of America and, upon returning to Brazil on June 8, 2024, had their luggage inspected by Customs at Guarulhos International Airport, at which time a Customs Agent allegedly damaged an imported perfume from the Tom Ford brand, Jasmin Rouge model, valued at R$ 4,830.35.

It alleges that the fact was recorded in the Goods Retention Report No. 081760024035579TRB01, drawn up by the inspection itself, and that, after the event, a request for reimbursement was submitted to the Brazilian Federal Revenue Service, which was denied on the grounds that the damage resulted from the traveler's sole fault, who allegedly stored the perfume "among the clothes, loose and outside the original packaging", making it impossible to foresee that it was a fragile object.

The Union, in its defense, alleges that there is no liability, since the Federal Revenue Service itself verified, through video footage, that the perfume was improperly packaged, loose, outside its packaging, and among clothing, thus establishing the plaintiff's sole fault and breaking the causal link. It argues that the agent acted regularly in the exercise of customs police power, without abuse or excess. Subsidiarily, it maintains that the plaintiff did not prove the value of the damage, presenting only an internet link, without an invoice or proof of purchase, which makes it impossible to determine the amount of compensation. Therefore, it requests that the action be dismissed.

Replica stamped in id. 374087150.

This is a brief report. I decide.

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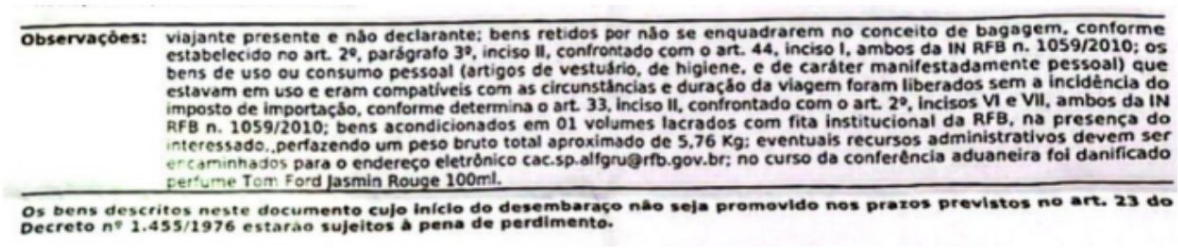
Without further ado, I will proceed to address the merits of the case.

The question is whether the Union has any responsibility in relation to...
to the event described.

Indeed, the 1988 Federal Constitution imposes on the State the duty to
to compensate for damages caused to third parties by its employees, regardless of
proof of intent or negligence Article 37, § 6: Public and private legal entities providing public and right
services shall be liable for damages caused by their agents. in
that capacity, causing harm to third parties, a with the right of recourse against the responsible party. the
cases or of fraud in blame).

Consequently, the objective civil liability of the State has as its purpose...
first assumption is (i) damage; not being satisfied with a mere decrease of
assets, since one is demanded from the legal damage . In other words, an injury to an actual right.
victim, causing an undue reduction of their assets; furthermore, although it may be
Current or future, the damage must be at least... It is also required that this damage be... Okay,
arising from (ii) an act of commission by a specific public official acting in that
quality (official nature of the activity) and/or even omission. Even though it is part of the doctrine
argue that the act must be illegal in order to establish liability.
objectively, administrative conduct does not necessarily have to be illegal, being
an act considered unlawful or liable for liability, even if devoid of illegality.
provided that it causes harm and has a causal relationship. The third requirement states
with respect to (iii) causal link, that is, the relationship between the action or cause and effect
omission and the, loss event guided not by an equivalence analysis of
causal antecedents (as is the case in criminal law), but rather by the im theory of direct damage and
ediato, also called the theory of interruption of the causal link (art. 403 of the CC, whose
The application is not limited to subjective liability, see REsp 719.738/RS, Rel.
Minister TEORI ALBINO ZAVASCKI, FIRST PANEL, decided on 09/16/2008, DJe
22/09/2008).

In the case under analysis, it remained uncontested that: (i) the author had his baggage
inspected by customs officials at Guarulhos Airport; (ii) during the
at customs conference, a perfume belonging to the author was damaged; (iii) the author himself
The public official acknowledged the damage in the Property Retention Report No.
081760024035579TRB01. Please check:


Observações: viajante presente e não declarante; bens retidos por não se enquadrarem no conceito de bagagem, conforme estabelecido no art. 2º, parágrafo 3º, inciso II, confrontado com o art. 44, inciso I, ambos da IN RFB n. 1059/2010; os bens de uso ou consumo pessoal (artigos de vestuário, de higiene, e de caráter manifestadamente pessoal) que estavam em uso e eram compatíveis com as circunstâncias e duração da viagem foram liberados sem a incidência do imposto de importação, conforme determina o art. 33, inciso II, confrontado com o art. 2º, incisos VI e VII, ambos da IN RFB n. 1059/2010; bens acondicionados em 01 volumes lacrados com fita institucional da RFB, na presença do interessado, perfazendo um peso bruto total aproximado de 5,76 Kg; eventuais recursos administrativos devem ser encaminhados para o endereço eletrônico cac.sp.alfgru@rfb.gov.br; no curso da conferência aduaneira foi danificado perfume Tom Ford Jasmin Rouge 100ml.

Os bens descritos neste documento cujo início do desembaraço não seja promovido nos prazos previstos no art. 23 do Decreto nº 1.455/1976 estarão sujeitos à pena de perdimento.

Furthermore, the Union itself, in its administrative pronouncement, acknowledges
expressly stating the occurrence of the damage: "On June 8, 2024, Mr. Nelson Angelo
Piquet landed at São Paulo International Airport, in Guarulhos-SP [...] No
During the customs conference, the Tom Ford Jasmine Rouge perfume was damaged.
100ml." (id. 357131693).

Therefore, the three elements of responsibility have been demonstrated.
objective, namely, (i) administrative conduct: customs inspection carried out by an agent
public; (ii) damage: perfume damaged during inspection; and finally, (iii) causal link: the

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public; (ii) damage: perfume damaged during inspection; and, finally, (iii) causal link: the damage occurred during and as a result of the inspection activity.

The Union alleges the victim's sole fault as an exclusion of liability, arguing that the perfume was improperly packed in the luggage (loose, outside its packaging, among clothes), maintaining that the plaintiff caused the damage by not adequately protecting the item. However, this argument does not hold up.

To establish the exclusion of fault, solely attributable to the victim, it would be necessary to demonstrate that the damage resulted exclusively from an act of the individual, without any participation from the conduct of the state agent, completely breaking the causal link.
Furthermore, the claim that "it was not possible to foresee that there was a fragile object among the clothes" does not absolve the State of responsibility. When conducting physical baggage inspections, the possibility of encountering fragile, valuable, or sensitive items is inherent to the activity. The public agent must conduct the inspection with due care, otherwise, failure to do so will generate objective liability for the State for the damages caused.

It should also be emphasized that the victim's exclusive fault would presuppose that the damage resulted solely from the individual's behavior, without any contribution from state conduct. In the case at hand, the damage was caused by the public agent's action during the handling of baggage, in the exercise of customs inspection.

Even though the perfume lacked special packaging, the damage did not result from the packaging itself, but rather from the way the agent handled the baggage during inspection. The causal link exists between the agent's conduct (handling the baggage) and the damage (breakage of the perfume). If the perfume had been broken before the inspection, or if it had been damaged on its own due to inadequate packaging during transport, one could consider the victim's exclusive fault. However, the damage occurred during the inspection, due to an act of the public agent, as recognized by the Union itself.

It is therefore clear that, in the present case, the plaintiff's exclusive fault has not been demonstrated. What is evident is that the damage occurred during the exercise of the inspection activity, and is attributable to the conduct of the public agent who, while handling the baggage, caused damage to the private property.

Finally, the Union subsidiarily questions the amount of damages, alleging a lack of documentary evidence (invoice). However, the Union itself, in its administrative statement, did not present any concrete evidence to refute the amount indicated by the plaintiff (R$ 4,830.35). On the contrary, it merely alleged generically the insufficiency of the evidence, without, however, indicating a different value or presenting counter-evidence.
In this context, and considering that the Union acknowledged the damage but did not specifically challenge the... quantum . The value indicated in the initial claim should prevail.

DEVICE

In light of the foregoing, I RULE IN FAVOR of the plaintiff's claim against the UNION, and hereby order the UNION to compensate the plaintiff for the material damages suffered in the amount of R$ 4,830.35 (four thousand, eight hundred and thirty reais and thirty-five cents), which shall be adjusted for inflation and interest from 08/06/2024, according to the indices set forth in the Federal Court's Calculation Manual.

No costs or fees.

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São Paulo, date of digital signature.